

### **REMARKS**

Applicant has reviewed and considered the Office Action mailed on February 12, 2009 and the references cited therein.

Claims 1, 3-4, 6, 9, 12, 15, 28, and 30 have been amended, claims 2, 10-11, and 29 have been canceled, and claims 31-34 have been added herein. As a result, claims 1, 3-9, 12-16, 28, and 30-34 are now pending in this application.

#### **35 U.S.C. § 101 Rejection of the Claims**

Claims 1-8 were rejected under 35 USC § 101 as not falling within one of the four statutory classes of invention.

Independent claim 1 has been amended herein to recite that the method is a computer implemented method, thus tying the method to a particular apparatus. Withdrawal of the rejection under 35 USC § 101 is therefore respectfully requested.

#### **35 U.S.C. § 112 Rejection of the Claims**

Claims 28-30 were rejected under 35 USC § 112, first paragraph, as failing to comply with written description requirement. The Examiner takes the position that the claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. The Applicants respectfully disagree. However, in order to expedite prosecution, claim 20 has been amended herein to change the reference to a "computer readable" medium to a "machine readable" medium. The specification-as-filed clearly discusses machine readable media in multiple locations.

#### **35 U.S.C. § 102 Rejection of the Claims**

Claims 1, 8, 9, and 28 were rejected under 35 USC § 102(b) as being anticipated by *Weigand et al.* (U.S. Patent No. 5784368 A) (hereinafter Weigand).

Independent claim 1 has been amended herein to further define "choosing one of said interfering base stations as a master base station" to include "when said interfering base stations are from multiple sync groups, selecting a sync group from said multiple sync groups to be a

master sync group, wherein a sync group is a group of base stations that are currently synchronized with one another;" "when said interfering base stations are all from a common sync group, identifying said common sync group as said master sync group;" and "when said master sync group includes at least one master base station that is also one of said interfering base stations and that has a received signal strength within said BSOI that is adequate to perform accurate synchronization, assigning one of said at least one master base station as a master base station of said BSOI." None of the cited references, either alone or in combination, disclose or suggest this technique for choosing a master base station. In the rejection of original dependent claim 2 in the office action, the Examiner admits that Weigard does not teach sync groups, but the Examiner points out that the Pulkkinen reference mentions a sync group in the Abstract section. However, in order to show obviousness, the Examiner has to do more than simply show the use of a single phrase within a reference. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. *KSR Int'l v. Teleflex Inc.*, 127 S. Ct. 1727, 82 USPQ2d 1385 (2007). Indeed, the Examiner must show that "the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains." 35 U.S.C. § 103(a) [emphasis added]

Based on the foregoing, it is submitted that claim 1 is allowable over Weigand. Reconsideration and allowance of claim 1 is therefore respectfully requested. Independent claims 9 and 28 have been amended herein in a manner similar to claim 1. It is submitted that these claims are allowable for at least the same reasons discussed above with respect to claim 1.

Claim 8 is a dependent claim that depends directly from independent claim 1. Consequently, claim 8 is allowable for at least the same reasons as claim 1.

### **35 U.S.C. § 103 Rejection of the Claims**

Claims 2, 4-7, 10-16, 29 and 30 were rejected under 35 USC § 103(a) as being unpatentable over *Weigand et al.* (U.S. Patent No. 5784368 A) in view of *Pulkkinen et al.* (U.S. Publication No. 20010014083 A1).

Claims 4-7, claims 12-16, and claims 29-30 are dependent claims that depend either directly or indirectly from independent claims 1, 9, and 28, respectively. Consequently, these claims are allowable for at least the same reasons as their corresponding base claims. These claims also provide further bases for patentability. For example, claim 4 further defines “choosing one of said interfering base stations as a master base station” as including “when said master sync group does not include a master base station that is also one of said interfering base stations and that has a received signal strength within said BSOI that is adequate to perform accurate synchronization, selecting a base station from said master sync group that is one of said interfering base stations as the master base station of said BSOI” and “creating a new ranging rule for said selected master base station.” None of the cited references teach or suggest these limitations, either alone or in combination. Claim 6 adds to the method of claim 1 “when said interfering base stations are from multiple sync groups and one of said multiple sync groups has been selected as said master sync group, giving said BSOI master status over sync groups in said multiple sync groups other than said master sync group.” None of the cited references teach or suggest these limitations, either alone or in combination. Claim 7 adds to the method of claim 6 “identifying synchronization chains for said sync groups in said multiple sync groups other than said master sync group, wherein each synchronization chain originates at said BSOI” and “creating a new ranging rule for each master/slave level within each synchronization chain.” None of the cited references teach or suggest these limitations, either alone or in combination.

Claims 2, 10-11, and 29 have been canceled herein without prejudice.

Claim 13 was rejected under 35 USC § 103(a) as being unpatentable over *Weigand et al.* (U.S. Patent No. 5784368 A) in view of *Pulkkinen et al.* (U.S. Publication No. 2001/0014083 A1) and further in view of *Dick et al.* (U.S. Publication No. 20030147362 A1).

Claim 13 is a dependent claim that depends indirectly from independent claim 9. Consequently, claim 13 is allowable for at least the same reasons as claim 9. Claim 13 also provides further basis for patentability.

Please note that no part of the present response should be taken as an admission that any of the claims of the corresponding application, whether independent or dependent, does not provide independent basis for patentability.



AMENDMENT AND RESPONSE UNDER 37 CFR § 1.111

Serial Number: 10/594,547

Filing Date: September 28, 2006

Title: METHOD AND APPARATUS FOR SYNCHRONIZATION OF BASE STATIONS IN A BROADBAND WIRELESS ACCESS SYSTEM

Page 11  
Dkt: P22709

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (480-948-3745) to facilitate prosecution of this application.

Respectfully submitted,

VLADIMIR BYKOVNIKOV

By his Representatives,

**CUSTOMER NUMBER: 45643**

480-948-3745

Date: May 12, 2009

By

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 12th day of May, 2009.

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